

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #3	CCRB Case #: 202102728	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/04/2020 6:40 PM, Saturday, 01/04/2020 7:00 PM	Location of Incident: Bordon Avenue and Vernon Boulevard; 108 Pct Stationhouse	Precinct: 108	18 Mo. SOL 7/4/2021	EO SOL 2/18/2022	
Date/Time CV Reported Wed, 05/05/2021 11:30 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 05/05/2021 11:30 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Talavera	09524	946660	108 DET
2. LT Noe Campos	00000	915401	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thaher Ahmed	01488	954468	108 PCT
2. POM David Cortes	26068	950233	108 PCT
3. POM Minh Hoang	22595	945822	108 PCT
4. PO Alexis Jusino	24319	931754	108 PCT
5. PO Bryan Crespo	08559	956553	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Talavera	Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)	
B.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)	
C.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)	
D.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)	
E.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)	
F.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)	
G.POM Peter Talavera	Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)	
H.POM Peter Talavera	Abuse: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera threatened § 87(2)(b) with the use of force.	

Officer(s)	Allegation	Investigator Recommendation
I.POM Peter Talavera	Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera hit § 87(2)(b) against a wall.	
J.LT Noe Campos	Force: At Bordon Avenue and Vernon Boulevard in Queens, Lieutenant Noe Campos hit § 87(2)(b) against a wall.	
K.LT Noe Campos	Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Lieutenant Noe Campos spoke discourteously to § 87(2)(b)	
L.POM Peter Talavera	Discourtesy: Inside of the 108th Precinct stationhouse, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)	

Case Summary

On May 5, 2021, § 87(2)(b) filed this complaint on the CCRB call processing system. His criminal attorney, § 87(2)(b), was also present when § 87(2)(b) was filing the complaint. The undersigned was assigned the case on May 6, 2021.

On January 4, 2020, at approximately 6:40 p.m., § 87(2)(b) was at the train yard located at Bordon Avenue and Vernon Boulevard in Queens. Police Officer Peter Talavera, Police Officer Alexis Jusino, Police Officer Thaher Ahmed, Police Officer Minh Hoangh, Police Officer David Cortes, Police Officer Bryan Crespo, and Lieutenant Noe Campos, all assigned to the 108th Precinct, responded to the location.

PO Talavera said to § 87(2)(b) “Let me see your fucking hands,” and “Don’t fucking run” (**Allegation A: Discourtesy**, § 87(2)(g)). PO Talavera threw § 87(2)(b) to the ground (**Allegation B: Force**, § 87(2)(g)). While § 87(2)(b) was on the ground, PO Talavera allegedly kned § 87(2)(b) on the sides of his body, stomped on § 87(2)(b)’s leg, lifted § 87(2)(b) up by his hands and threw him to the ground again (**Allegations C-F: Force**, § 87(2)(g)).

PO Talavera said, “You like to spray that shit in my face. Turn the fuck around,” “Give me your fucking hands or I’ll rip them right off,” “You sprayed that shit in my-fuck, you sprayed that shit in my fucking face,” and “Get the fuck up” (**Allegation G: Discourtesy**, § 87(2)(g)) (**Allegation H: Abuse of Authority**, § 87(2)(g)).

Lt. Campos and PO Talavera slammed § 87(2)(b) against the wall (**Allegation I: Force, Miscellaneous**, § 87(2)(g)). (**Allegation J: Force**, § 87(2)(g)). Lt. Campos referred to § 87(2)(b) as a “fucking asshole” (**Allegations K: Force, Miscellaneous**, § 87(2)(g)).

§ 87(2)(b) was transported to the 108th Precinct stationhouse where he was lodged in a holding cell. PO Talavera allegedly entered the holding cell and said to § 87(2)(b) “You fucking mother fucker, you’re going down,” (**Allegation L: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) was arrested for assault of a police officer, making graffiti, criminal trespassing in the second degree, obstructing governmental administration in the second degree, assault with intent to cause physical injury, assault three, criminal mischief, possession of a graffiti instrument, trespassing, and harassment in the second degree (Board Review 01).

The investigation obtained the body-worn camera (BWC) footage of PO Jusino, PO Talavera, PO Cortes, PO Hoangh, PO Ahmed, PO Crespo, and Lt. Campos (Board Review 02-08/ IAs # 95-101). PO Ahmed and PO Talavera’s BWC footage most clearly captured the allegations above.

Lt. Campos subsequently retired from the NYPD in December of 2020.

Findings and Recommendations

Allegation (A) Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)

Allegation (B) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)

Allegation (C) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)

Allegation (D) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)

Allegation (E) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)

Allegation (F) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera used physical force against § 87(2)(b)

Allegation (G) Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera threatened § 87(2)(b) with the use of force.

Allegation (I) Force: At Bordon Avenue and Vernon Boulevard in Queens, Police Officer Peter Talavera hit § 87(2)(b) against a wall.

Allegation (J) Force: At Bordon Avenue and Vernon Boulevard in Queens Lieutenant Noe Campos hit § 87(2)(b) against a wall.

Allegation (K) Discourtesy: At Bordon Avenue and Vernon Boulevard in Queens, Lieutenant Noe Campos spoke discourteously to § 87(2)(b)

The entirety of this incident is captured on the BWC of the responding officers. Many of the verbal allegations pertaining to PO Talavera were captured on BWC and not alleged by § 87(2)(b). After reviewing all of the BWC footage associated with this incident, the investigation determined that PO Ahmed and PO Talavera's footage best captured the entire incident, from beginning to end.

§ 87(2)(b) (Board Review 12) testified that on the night of the incident he was at a trainyard located at Bordon Avenue and Vernon Boulevard in Queens. § 87(2)(b) declined to answer what he was doing at the location. It was dark outside, and § 87(2)(b) could only see approximately 40-50 feet in front of him. An unidentified individual, whom § 87(2)(b) did not know, was also present. § 87(2)(b) did not know the individual's name and thus could not provide it to the investigation. This person was not arrested and did not witness § 87(2)(b)'s subsequent encounter with the police. Approximately five minutes after being at the location, § 87(2)(b) heard unidentified voices screaming. § 87(2)(b) saw PO Ahmed and PO Talavera approach him from behind in plainclothes. They did not identify themselves as police nor did they issue § 87(2)(b) any commands. This scared § 87(2)(b) so he ran approximately 100 feet and then stopped between an empty train that was on a track and an adjacent metal building because he heard additional voices coming from in front of him yelling "Police." § 87(2)(b) put both of his hands behind his back. PO Ahmed approached § 87(2)(b) and said, "Don't move." § 87(2)(b) responded, "I'm not. I'm not resisting," and continued to hold his hands behind his back. PO Ahmed put one of § 87(2)(b)'s hands into a handcuff and secured it. During this time, § 87(2)(b) heard voices yelling to one another and getting closer. § 87(2)(b) remained still and did not move. As PO Ahmed placed § 87(2)(b)'s other hand into the other handcuff, PO Talavera ran from behind § 87(2)(b) referred to § 87(2)(b) as a "piece of shit" and a "motherfucker," simultaneously hit § 87(2)(b) in the back of the head with the front of his forearm and elbow, and slammed § 87(2)(b) to the ground face-first. PO Talavera landed on top of § 87(2)(b) who still had his hands behind his back. While § 87(2)(b) was on the ground, PO Talavera kned § 87(2)(b) on both sides of his body near his rib cage and on his back and stomped on the back of § 87(2)(b) left leg. Although he was face down and could not see, § 87(2)(b) believed this force and the subsequent force used against him came from PO Talavera because PO Talavera had initiated the physical interaction. § 87(2)(b) did not move his body and remained face first on the ground with his legs straight behind him and both of his hands behind his back. An officer then placed § 87(2)(b)'s free hand into the other handcuff. § 87(2)(b) did not see if it was PO Talavera that

placed his second hand into the second handcuff. PO Talavera stood over § 87(2)(b) with his legs on either side of him, grabbed both of § 87(2)(b)'s wrists, and lifted him up behind his back until his § 87(2)(b)'s back touched PO Talavera's groin area. PO Talavera then slammed § 87(2)(b) into the ground again. § 87(2)(b) screamed, "I am not resisting." Within a few seconds, additional officers pulled PO Talavera off § 87(2)(b). § 87(2)(b) did not know when the additional officers arrived, which direction they came from, or who specifically pulled PO Talavera off him. PO Talavera then stood § 87(2)(b) all the way up. Once he was on his feet, § 87(2)(b) observed approximately five or six officers surrounding him. The officers turned § 87(2)(b) around and passed him amongst one another. An officer ordered § 87(2)(b) to get against the wall of the metal building that was approximately two steps away from where § 87(2)(b) stood. Simultaneously, Lt. Campos and PO Talavera put their hands on § 87(2)(b)'s shoulders and rocked him backwards so that he was uneasy on his feet. In the same motion, Lt. Campos and PO Talavera slammed § 87(2)(b) against the wall. The officers did not give § 87(2)(b) a chance to stand against the wall voluntarily. § 87(2)(b) was then escorted to a police vehicle.

PO Talavera (Board Review 09) testified that he and PO Jusino drove alone to the Long Island City Railroad Yard to address ongoing conditions stemming from a homeless shelter that was located directly next to the train yard. Numerous complaints had been made by local businesses regarding stolen copper lines from the train yard, graffiti, and drug use. Upon arrival at the location, PO Talavera and PO Jusino parked their vehicle, turned their lights off, and observed. PO Talavera rolled his window down and immediately detected the odor of spray paint in the area. PO Talavera called Lt. Crespo to respond to the location so they could set up a strategy on how to approach the individuals. PO Talavera and PO Jusino exited their vehicle and proceeded to walk closer to the parked train to see if they could see anything. PO Talavera observed two shadows and heard the sound of spray cans. PO Talavera approached § 87(2)(b) and the other individual, both of whom were making graffiti, and said, "Stop. Police." PO Talavera stated that he may have used foul language at that time because he wanted to deescalate the situation and he knew that, based on his experience, individuals who were caught making graffiti tended to run. A foot pursuit ensued between the officers, § 87(2)(b) and the unidentified individual. § 87(2)(b) ran forward, and the other individual disappeared. PO Jusino followed the other individual. PO Talavera followed § 87(2)(b) and was an arm's length behind him when § 87(2)(b) turned around, while running, and sprayed a substance into PO Talavera's face. PO Talavera came to a complete stop because he could not see. PO Ahmed, who arrived at the location at some point, continued to follow § 87(2)(b). After PO Talavera regained his composure, he could hear the other officers' voices on the other side of the parked train. PO Talavera climbed over the train car and could see that § 87(2)(b) had been stopped by PO Ahmed. PO Ahmed stood directly behind § 87(2)(b). PO Talavera could hear that PO Ahmed had removed his handcuffs from his pouch and was in the process of unclasping them so he could put them on § 87(2)(b). PO Talavera observed that § 87(2)(b) was in a position that, based on PO Talavera's years of experience, was consistent with someone who was about to run: § 87(2)(b) was leaning forward as if he was about to take off running. PO Talavera went around PO Ahmed and approached § 87(2)(b) from behind. PO Talavera grabbed § 87(2)(b) and took him to the ground so he wouldn't run away. § 87(2)(b) did not make any physical movements or resist being taken to the ground. Once on the ground, PO Talavera turned § 87(2)(b) over so that § 87(2)(b)'s face was on the ground. § 87(2)(b) did not make any physical movements while he was on the ground. PO Talavera put § 87(2)(b)'s right hand into a cuff and then moved his right hand to his left side to cuff the other. PO Talavera did not strike § 87(2)(b) in the back of his head with the front of his forearm and elbow. PO Talavera did not knee § 87(2)(b) on his rib cage or lower back area. PO Talavera did not stomp on the back of § 87(2)(b)'s left leg. PO Talavera did not lift § 87(2)(b) up by his wrists to his groin area and then slam him into the ground. PO Talavera did not slam § 87(2)(b) into the wall of the adjacent building, nor did he see any other officer do so. No additional officers assisted PO Talavera in

handcuffing § 87(2)(b) PO Talavera could not recall if he made the discourteous allegations described above. PO Talavera stood § 87(2)(b) up and handed him to PO Ahmed.

PO Ahmed (Board Review 13) testified that he, PO Cortes, PO Hoangh, and Lt Campos were patrolling the 108th Precinct when one of the officers received a phone call from PO Talavera or PO Jusino (PO Ahmed could not recall which one) telling them to go to the train yard because they were observing two males making graffiti. Upon arriving at the location, Lt. Campos dropped PO Ahmed and PO Hoangh off at the yard entrance and instructed them to continue on foot. PO Cortes and Lt. Campos drove further into theyard to where PO Talavera and PO Jusino were. Approximately two minutes after exiting the vehicle and walking on the tracks, PO Ahmed and PO Hoang observed § 87(2)(b) and an unidentified male running towards them from approximately 30 yards away. PO Jusino, PO Cortes, Lt. Campos, and PO Talavera were running approximately 10 feet behind § 87(2)(b) PO Ahmed observed § 87(2)(b) and the unidentified male split up; the unidentified male ran towards the fence and § 87(2)(b) jumped over the train tracks. PO Hoangh, PO Jusino, and PO Cortes ran after the unidentified male. PO Ahmed ran after § 87(2)(b) as did PO Talavera and Lt. Campos. § 87(2)(b) jumped between two of the cars attached to the parked train next to PO Ahmed. PO Ahmed followed § 87(2)(b) and said, “Stop. You’re not going to go anywhere. Give up. You’re not going to go far.” Both § 87(2)(b) and PO Ahmed were out of breath because they had just run approximately 50 yards for approximately one minute. § 87(2)(b) voluntarily stopped and leaned forward because he was out of breath. § 87(2)(b) s back was to PO Ahmed. PO Ahmed ordered § 87(2)(b) to place his hands behind his back and § 87(2)(b) complied. PO Ahmed grabbed one of his hands and removed his handcuffs. PO Ahmed could not recall if he was able to secure one of the handcuffs on § 87(2)(b) was gasping for air. As PO Ahmed attempted to secure one of the handcuffs, PO Talavera came from behind PO Ahmed and tackled § 87(2)(b) to the ground. PO Ahmed stated that § 87(2)(b) did not present any safety concerns at the time PO Talavera took him to the ground. PO Talavera was angry, and he kept saying, “You sprayed me in my face.” PO Ahmed did not observe § 87(2)(b) spray any substance into PO Talavera’s face. While on the ground, PO Talavera and PO Ahmed secured both of § 87(2)(b) s hands into handcuffs. PO Ahmed did not participate in taking § 87(2)(b) to the ground. § 87(2)(b) did not make any physical movements while on the ground and he did not resist being put into handcuffs at any point. PO Ahmed did not observe PO Talavera strike § 87(2)(b) in the back of his head with his elbow. PO Ahmed did not observe PO Talavera knee § 87(2)(b) on his rib cage or back, stomp on the back of § 87(2)(b) s left leg, lift § 87(2)(b) up by his hands towards his (PO Talavera’s) groin, or slam § 87(2)(b) to the ground a second time. During this time, PO Ahmed stated that he heard PO Talavera cursing at § 87(2)(b) but he could not recall the exact statements made by PO Talavera. PO Ahmed, PO Talavera, and Lt. Campos stood § 87(2)(b) up and put him against the wall of a warehouse. PO Ahmed did not slam § 87(2)(b) against the wall, nor did he see any other officer do so.

On August 8, 2021, a request for the reason and date of Lt. Campos’ separation from service confirmed that Lt. Campos retired from the NYPD on December 1, 2020 (Board Review 14). As a result, Lt. Campos was not interviewed by the CCRB.

PO Talavera’s BWC footage, which is 13:27 minutes in length, captures his interaction with § 87(2)(b) (Board review 03). The video begins from the perspective of PO Talavera standing in a train yard. At 00:52, PO Talavera removes his camera and aims it towards the direction of where the graffiti is taking place. The footage does not capture the individuals as they are too far away from where PO Talavera is standing. PO Talavera tells PO Jusino to take a look as well. At 01:34, PO Talavera says, “They can’t see us.” At 01:55, PO Talavera says that he can smell the paint. PO Talavera and PO Jusino talk about waiting for other officers to arrive before they approach the individuals. At From 03:19 to 04:55, PO. Talavera gives directions to someone on the phone and

discusses how they are going to approach. At 07:15, PO. Talavera begins walking in the direction of where individuals are making graffiti. At 07:34, PO Talavera begins to run in the same direction. The footage does not capture what § 87(2)(b) and the other individual are doing at that time nor does it capture them running away due to quality and angle of the camera. At 07:37, PO Talavera says, “Let me see your fucking hands, let me see your fucking hands.” At 07:45, PO Talavera continues to run and says, “You better stop. Don’t fucking run.” At 07:56, PO. Talavera says, “Go get em, D. He sprayed that shit right in my eyes.” The angle of the video does not capture PO Talavera being sprayed in the face. At 08:00 an officer runs past PO Talavera and PO Talavera says, “He got me right in the eyes, boss.” At 08:08, PO Talavera continues to run in the direction of the other officers. At 08:34, PO Talavera says, “You better come over here right now, you better come over here right now.” At 08:41, PO. Talavera climbs over a train car to the other side of the track, closer to the wall of an adjacent building. PO Talavera’s camera is blurry as he appears to be running. At 08:48, PO Talavera is seen on top of § 87(2)(b) who is face up on the ground. PO Talavera grabs onto § 87(2)(b)’s collar. § 87(2)(b) is on the ground facing PO Talavera. The footage does not capture what § 87(2)(b) is doing with his body. PO Talavera says, “You like to spray that shit in my face? You like to spray that shit in my face? Turn the fuck around.” At 08:56, PO. Talavera says, “Give me your fucking hands or I’ll rip them right off,” and simultaneously pulls § 87(2)(b)’s right hands out from underneath him. At 08:59, § 87(2)(b) says, “I’m not resisting.” PO Ahmed is seen holding § 87(2)(b)’s left arm behind his back as PO Talavera puts it into a handcuff. § 87(2)(b)’s right hand is already in the other handcuff. At 09:00, PO Talavera says, “You sprayed that shit in my fuck... you sprayed that shit in my fucking face...Get the fuck up.” The footage does not capture how § 87(2)(b) was brought to his feet. At 09:27, Lt. Campos, whose back is to PO Talavera, is seen pushing § 87(2)(b) against the building wall face-first. At 09:39, PO Ahmed and Lt. Campos are captured standing with § 87(2)(b) against the wall approximately 10 feet away from PO Talavera.

PO Ahmed’s BWC footage, which is 30:49 minutes in length, captures his interaction with § 87(2)(b) (Board Review 06). At 00:29, PO Ahmed begins running. At 00:35, a voice in the distance says, “Police! Don’t move.” At 00:59, § 87(2)(b) jumps off the train. PO Ahmed says, “You’re not going far, man. Just come here.” § 87(2)(b) responds, “I know.” At 01:08, PO Talavera says, “You better come over here right now.” At 01:15, PO Ahmed runs after § 87(2)(b) who is running away. PO Ahmed yells, “Stop.” At 01:17, § 87(2)(b) voluntarily stops, and PO Ahmed says, “Put your hands behind your back.” § 87(2)(b) puts his hands behind his back and says, “Okay, okay.” § 87(2)(b) is leaning forward and is out of breath. The sounds of handcuffs can be heard. At 01:24, PO. Talavera enters the frame abruptly and throws § 87(2)(b) to the ground while saying, “You like to spray that shit in my face?” § 87(2)(b) grunts as he is taken to the ground and still has his hands behind his back. PO Ahmed’s camera continues to record but only captures the empty space in front of him. PO Talavera and § 87(2)(b) are out of the frame but a struggle can be heard. At 01:34, PO. Talavera is seen on top of § 87(2)(b) who is face first on the ground. § 87(2)(b) says, “I am not resisting.” PO Ahmed has his hands on § 87(2)(b)’s back while PO Talavera handcuffs him. § 87(2)(b) does not move his body while being handcuffed. The footage does not capture how § 87(2)(b) was brought to his feet. At 01:53, PO Ahmed holds onto § 87(2)(b)’s right shoulder. At 01:58, Lt. Campos stands behind § 87(2)(b) as he holds onto the back collar of § 87(2)(b)’s jacket. At 02:00, PO Ahmed pulls on the front of § 87(2)(b)’s shirt and says, “Get against the wall.” PO Ahmed continues to hold on to the front of § 87(2)(b)’s shirt as he walks him towards the wall of an adjacent building. Simultaneously, Lt. Campos pushes § 87(2)(b) against the wall. At 02:14, Lt. Campos refers to § 87(2)(b) as a “fucking asshole.”

After reviewing his BWC footage, which showed PO Talavera saying, “Let me see your fucking hands. Let me see your fucking hands,” and “Don’t fucking run,” PO Talavera acknowledged

making these statement and said that based on his experience, using verbal commands to stop someone from running often deescalates the situation. PO Talavera also acknowledged saying, “You like to spray that shit in my face. Turn the fuck around,” and said he made them because he was in pain (Board Review 09) PO Talavera acknowledged saying, “You piece of shit. Give me your fucking hands or I’ll rip them right off,” and said he made these statements because his eyes were “killing him” and he just wanted to apprehend § 87(2)(b). PO Talavera explained that he said, “You sprayed that shit in my fucking face. Get the fuck up,” because his eyes were in pain.

The investigation obtained the memo books of all the responding officers (Board Review 21). § 87(2)(g) PO Ahmed noted § 87(2)(b) s arrest in his memo book but did not provide a narrative of the interaction (Board Review 21). The investigation obtained the Grand Jury Minutes for § 87(2)(b) s criminal proceeding, during which PO Talavera testified (Board Review 22). § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

In his Threat, Resistance, and Injury (TRI) report § 87(2)(b) prepared for § 87(2)(b) PO Talavera acknowledged using a forcible take down against him (Board Review 15). § 87(2)(b), § 87(2)(g)

It should be noted that based on the BWC footage, PO Talavera did not immediately take § 87(2)(b) to the ground after being sprayed, but approximately one minute later. This distinction is not made clear in the TRI. Lt. Campos did not prepare a TRI regarding this incident.

Command Log for the incident date from the 108th Precinct (Board Review 25) noted that § 87(2)(b) s appearance was normal when he arrived at the stationhouse at approximately 6:15 p.m. § 87(2)(b) s arrest photograph does not show any visible injuries to § 87(2)(b) s face (Board Review 26).

Prehospital Care Report generated for PO Talavera noted that PO Talavera’s eyes were irrigated by EMS at the stationhouse and that PO Talavera stated that was sprayed in the eyes with spray paint from approximately three feet away (Board Review 23). A Line of Duty Injury Report prepared on behalf of PO Talavera by Sergeant Jesse Zhong of the 108th Precinct, states that during the foot pursuit of § 87(2)(b) turned around and sprayed spray paint into PO Talavera’s eyes (Board Review 27).

§ 87(2)(b) provided § 87(2)(b) s medical records to the undersigned (Board Review 28). § 87(2)(b) did not seek medical attention directly after the incident. On January 10, 2020, § 87(2)(b) went to § 87(2)(b) in Queens due severe back pain. § 87(2)(b) was ultimately diagnosed with lumbar disc syndrome, a lumbar sprain/strain, left leg sciatica, bilateral shoulder and a rotator cuff tear (Board Review 28).

NYPD Patrol Guide Procedure 221-02 states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (Board Review 16)

NYPD Patrol Guide Procedure 221-01 outlines the factors should be taken into consideration when determining whether the use of force is reasonable: nature and severity of the crime; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to MOS; size, age, and condition of the subject in comparison to MOS; subject's violent history, if known; presence of hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic affecting pain tolerance or increasing the likelihood of violence. Furthermore, MOS shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault (Board Review 18).

NYPD Disciplinary Case no. 2017-17005 clarifies that profane remarks made by police officers during stressful situations, or while an officer is trying to gain control of a chaotic situation, is not misconduct. However, an officer making profane remarks which do not serve the purpose of controlling a stressful a chaotic situation, is committing misconduct (Board Review 11) NYPD Patrol Guide Procedure 203-09 requires officers to be courteous and respectful (Board Review 12)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Allegation (L) Discourtesy: Inside of the 108th Precinct stationhouse, Police Officer Peter Talavera spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 12) testified that he was transported to the 108th Precinct stationhouse. At the stationhouse, § 87(2)(b) was lodged in a holding cell. § 87(2)(b) was alone in the holding cell during his time at the stationhouse. While in the holding cell, PO Talavera entered and said, “You fucking mother fucker, you’re going down.”

The investigation did not obtain any video evidence that covered this portion of the incident.

The Prisoner Holding Pen Roster (PHPR) from 108th Precinct for the incident date revealed that § 87(2)(b) was alone in the holding cell (Board Review 25). Command Log entries for the incident date confirmed that § 87(2)(b) arrived at the stationhouse at 6:15 p.m. and was taken to Central Booking at 12:15 a.m. (Board Review 24). There were no other arrest stamps during that time. Thus, no potential witnesses to the above allegation were identified.

PO Talavera (Board Review 09) testified that by the time he arrived back at the stationhouse, § 87(2)(b) was already lodged in a holding cell. PO Talavera did not go into the cell area at any point. PO Talavera did not enter the cell area and say to § 87(2)(b) “You fucking mother fucker you’re going down”

PO Ahmed (Board Review 13) testified that he and PO Hoang transported § 87(2)(b) to the stationhouse and lodged him in the holding cell. PO Ahmed did not know if PO Talavera had any further interaction with § 87(2)(b) and he did not observe PO Talavera go into § 87(2)(b)'s holding cell at any point. PO Ahmed did not hear PO Talavera say, "You fucking mother fucker, you're going down" to § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- PO Talavera has been a member of service for 14 years and has been named a subject in in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- The CTS database does not list Lt. Crespo's tenure. During his time at the NYPD, Lt. Crespo was named a subject in five CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On August 8, 2020, § 87(2)(b) filed a Notice of Claim with the City of New York claiming assault, battery, use of excessive force, false imprisonment, illegal detainment, negligent infliction of emotional distress, intentional infliction of emotional distress, trespass, invasion of privacy, malicious prosecution, illegal stop and frisk, conspiracy, and deprivation of civil rights and is seeking adjustment and an undetermined amount in payment (Board Review 20). A 50-H hearing was held on § 87(2)(b) (Board Review 28).
- According to the Office of Court Administration, § 87(2)(b) has not history of convictions in New York City (Board Review 19). § 87(2)(b)'s criminal case that stemmed from this incident is ongoing and his next court appearance is on § 87(2)(b).

Squad: 3

	Charis Jones	Inv. Charis Jones	12/03/2021
Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

	Olga Golub	IM Olga Golub	12/03/2021
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:

Signature

Print Title & Name

Date